

MINUTES OF SEPTEMBER 17, 2018

The regular meeting of the Sussex County Board of Adjustment was held on Monday, September 17, 2018, at 7:00 p.m. in the County Council Chambers, 2 The Circle, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman John Mills presiding. The Board members present were: Mr. Dale Callaway, Ms. Ellen Magee, Mr. Bruce Mears, Mr. John Mills and Mr. Brent Workman. Also, in attendance were Mr. James Sharp, Esquire – Assistant County Attorney, and staff members Ms. Janelle Cornwell, Planning and Zoning Director, Mr. Jamie Whitehouse – Planning Manager, and Ms. Ann Lepore – Recording Secretary.

The Pledge of Allegiance was led by Mr. Mills.

Motion by Ms. Magee, seconded by Mr. Mears, and carried unanimously to approve the agenda as amended. Motion carried 5 – 0.

Motion by Mr. Workman, seconded by Mr. Mears, and carried unanimously to approve the Minutes and Findings of Facts for July 23, 2018. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the case.

OLD BUSINESS

Case No. 12188 – Allen Harim Foods LLC requests to change the condition of approval found in Paragraph 63(p)(ii) of the Findings of Fact regarding wastewater treatment for Board Case No. 12113 (Sections 115-214 of the Sussex County Zoning Code). The property is located on the northwest corner of Pinnacle Way and Iron Branch Rd. (Rt. 331). 911 Address: 29984 Pinnacle Way, Millsboro. Zoning District: HI-1. Tax Map: 233-5.00-14.00, 233-5.00-15.00, & 233-5.00-16.00

Ms. Magee recused herself from the discussion of this application and left the Chambers.

Ms. Cornwell presented the case.

The Board discussed the case and members indicated that they were prepared to vote on the Application.

Mr. Mears moved to eliminate the condition and as part of his motion provided that based on the findings above and the testimony and evidence presented at the public hearing and the public record, which he weighed and considered, he moved that, pursuant to §115-214 of the Code, the Board eliminate the condition set forth in Paragraph 63(p)(ii) of the Findings of Fact for Case No. 12113. As otherwise noted in the Findings of Fact, all wastewater must be treated in accordance with all regulations and all discharged effluent will be maintained in compliance with DNREC regulations. The condition set forth in Paragraph 63(p)(ii) is unnecessary and the elimination of

that condition will not impact the Board's decision that the proposed deboning facility will not substantially affect adversely the uses of neighboring and adjacent properties. Furthermore, as noted in the Findings of Fact, DNREC, through its rules and regulations, will have jurisdiction to protect the County and its waterways from the harmful effects of air and water pollution of any type. DNREC's extensive involvement in the permitting process indicates that it will make sure that the public health, safety, morals and general welfare will be properly protected and that necessary safeguards will be provided for the protection of water areas or surrounding property and persons.

Mr. Mears' motion failed for lack of a second.

The Board discussed the Application again.

Mr. Workman stated that DNREC will be checking on the wastewater and that the Applicant should be permitted to haul wastewater.

Mr. Callaway agreed with Mr. Workman.

Mr. Sharp stated that, if the Board was inclined to allow the hauling of wastewater prior to the installation of the spray irrigation system, an amendment to the condition would be needed.

Mr. Workman stated that the condition needs to be amended.

Mr. Mills stated that he would be agreeable to allowing the Applicant to haul wastewater provided they have permits from DNREC prior to the installation of the spray irrigation system. He suggested that there be a time limit for the installation of the spray irrigation system.

Mr. Sharp reminded the Board that there is a process with DNREC for the spray irrigation system and that process includes appeal rights which could delay the installation. Mr. Sharp stated that the Board could require the Applicant apply for a spray irrigation permit within a certain time period as that would be an easier condition for staff to track.

Mr. Callaway asked about the number of gallons of wastewater.

Mr. Sharp stated that the size and scope of the project was limited in the Board's prior approval and the Applicant has not sought to amend that condition.

Mr. Callaway moved to amend the condition set forth in paragraph 63(p)(ii) of the Finding of the Facts for Case Number 12113 to read as follows: "The Applicant must obtain appropriate permits from DNREC for the proper treatment and disposal of the wastewater for limited processing and packing facilities approved by the Board in the above referenced special use exception." Mr. Callaway's motion was seconded by Mr. Workman. As part of his motion Mr. Callaway stated that:

- As noted in the Findings of the Facts for Case Number 12113, the approved special use exception will not substantially affect adversely the use of the neighboring and adjacent properties. The amendment of this condition as noted will not change that finding.
- Furthermore, as noted in the Finding of Facts, DNREC through its rules and regulations will have the jurisdiction to protect the County and its waterways for harmful effects of water and air pollution of any type. DNRECs extensive involvement in the permitting process indicates that it will make sure that the public health, safety, morals and general welfare will be properly protected and that necessary safeguards will be provided for the protection of the water areas or surrounding properties and persons.

Motion carried unanimously 4-0

The vote by roll call; Mr. Workman – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Ms. Magee returned to Chambers.

Case No. 12195 – SS-LS-DE, LC d/b/a SS-LS-DE, LLC - requests a special use exception to use a manufactured home type structure as an office (Sections 115-80 & 115-210 of the Sussex County Zoning Code). The property is located on the southeast side of Discount Land Rd., approximately 253 ft. northeast of Sussex Hwy. (Rt. 13). 911 Address: 29285 Discount Land Rd., Laurel. Zoning District: C-1. Tax Parcel: 232-12.00-63.01

Ms. Cornwell presented the case and noted that the Board left the record open for additional information from the Applicant and the Applicant has submitted the requested information, which was circulated to the Board.

Nicole Faries, Esquire, was present on behalf of the Applicant.

Ms. Faries stated that the Applicant purchased the Property six (6) years ago; that she did not know if the property owner was aware at the time it purchased the Property that the special use exception to place a manufactured home on the property was a temporary permit; and that the Applicant is now aware of the temporary nature of the permit.

Mr. Mills stated that the affidavit submitted by the Applicant's representative indicates that the Applicant intends to a permanent structure within the next five years.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously **to the grant the special use exception for one, five-year period.** Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

PUBLIC HEARINGS

Case No. 12182 – Stuart W. Ferguson & Rochelle M. Ferguson seek a variance from the front yard setback requirement for an existing structure (Sections 115-34 & 115-182 of the Sussex County Zoning Code). The property is located on the east side of William F. St., approximately 533 ft. northeast of Coastal Hwy. (Rt. 1). 911 Address: 38298 William F. St., Rehoboth Beach. Zoning District: MR. Tax Parcel: 334-20.09-91.00

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received two letters in support of and zero letters in opposition to the Application and two mail returns. The Applicant seeks variances of 5.8 ft. from the required twenty-five (25) feet front yard setback for the existing steps.

Rochelle Ferguson was sworn in to give testimony. Bill Schab, Esquire, was present on behalf of the Applicant and presented the Application. Mr. Schab presented the Board with an updated survey and pictures.

Mr. Schab stated that the Property is located in the Forgotten Mile; that the Applicants purchased the Property 5 years ago; that there have been other variances granted in the neighborhood; that the Property is unique because it is so narrow; that many of the homes in the area are tall and narrow to fit on the lots; that the average front yard setback is 25 feet; that the original plans called for the steps to project 5 feet into the front yard setback area; that the error was discovered after the steps were built; that the house is a split-level home; that the builder and surveyor thought the steps could project 5 feet into the front yard setback; that the steps go to the second floor of the home; that the steps cannot be otherwise developed due to the size of the lot; that this situation was not created by the Applicants but by a mix up with the builder about placement of the steps leading to an upper floor and the building being a split-level house; that the certificate of occupancy expires in 3 weeks; that the variance will not alter the essential character of the neighborhood as there are many other homes where either the porch or steps also extend into setbacks; that there is support from neighbors; and this is the minimum variance without causing a huge financial hardship to the Applicant.

Ms. Ferguson affirmed the statements made by Mr. Schab as true and correct. Ms. Ferguson testified that her neighbors love the house; and that her neighbor's porch extends almost as much as her steps.

Ms. Cornwell explained that she started to process the Application as an administrative variance but realized that it could not be processed in that fashion; that the steps were 20 feet from

the front property line when the dwelling was designed; and that there was a difference between the planned structure and what was built.

Ms. Ferguson testified that Mark Clavier built the house and she relied on the builder and surveyor; that there is living space on the first floor of the dwelling; that the dwelling is a split-level home; that the Property is not in a flood zone; and that the second-floor steps would project farther than first-floor steps.

Mr. Schab stated that the property line is approximately 14 feet from the edge of paving of William F. Street.

The Board found that no parties appeared in support of or in opposition to the Application.

Mr. Mears moved to approve Variance Application No. 12182 for the requested variance for the following reasons:

1. The uniqueness of the property is in the building plan with the split-level floor;
2. The Property cannot be otherwise developed without redesigning the house and crushing the curb appeal;
3. This situation was not created by the Applicants but by the surveyor and builder;
4. The variance will not affect the essential character of the neighborhood as it is an attractive house;
5. The requested variance is the minimum variance necessary to afford relief.

Motion by Mr. Mears, seconded by Ms. Magee, and carried unanimously that the **variance be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12198 – Raymond Armstrong & Leisa Keys seek a special use exception for a garage/studio apartment and a variance from the maximum square footage for a garage/studio apartment for a proposed structure (Sections 115-23 & 115-210 of the Sussex County Zoning Code). The property is located at the end of Harmony Woods Dr., approximately 0.46 mile north of Harmony Cemetery Rd. 911 Address: 25216 Harmony Woods Dr., Millsboro. Zoning District: AR-1. Tax Parcel: 234-22.00-45.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicants seek a variance of 100 square feet from the 600 square feet maximum square footage for a garage / studio apartment and a special use exception for a garage / studio apartment.

Raymond Armstrong was sworn in to give testimony. Mr. Armstrong testified that the request is to build a garage / studio apartment for his mother-in-law; that the unit will have a kitchen and provide her with independent living space; that he was not aware that he needed a variance in addition to the special use exception; and that he would like additional time to prepare his presentation.

The Board left the public hearing open and moved the case to the end of the agenda to allow Mr. Armstrong time to address the standards for a variance.

At the end of the agenda, the Board returned to the case.

Mr. Armstrong was previously sworn in to give testimony. Mr. Armstrong testified that the proposed addition matches the neighborhood; that the garage / studio apartment will include a porch measuring 5 feet by 20 feet and will be the same width as the garage / studio apartment; that the Property is unique and could not otherwise be developed as the development requires that the garage/studio apartment match the architecture of the house and therefore, a porch is a necessary addition; that the porch will also allow for a future wheelchair ramp; that his mother-in-law uses a walker and the porch will provide a safer access to the home; that the apartment has an open floor plan due to his mother-in-law's handicap; that this was not created by the applicant but is a request by the developer to match the design of the house; that the variance will not alter the essential character of the neighborhood as it matches the house; that the apartment portion of the unit will measure 800 square feet but the variance is needed for the porch; that the closest neighbor is ¼ miles away; that he will not be renting the unit; that the Property has 3 acres; that he will have a dedicated parking space for the occupant of the unit; that it is the minimum variance that will eventually allow for wheelchair access; that the unit will use the existing well; and that DNREC has approved the septic plan.

The Board found that no parties appeared in support of or in opposition to the Application.

Ms. Magee moved to approve Case No. 12198 for a special use exception for a garage/studio apartment as it will not substantially affect adversely the use of adjacent and neighboring properties and to grant the variance as it meets the standards for granting a variance.

Motion by Ms. Magee, seconded by Mr. Workman, and carried unanimously that **the special use exception and the variance be granted**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12199 – William D. & Suzanne R. Middleton seeks a variance from the side yard setback requirement for an existing structure (Section 115-34 of the Sussex County Zoning Code). The property is located on the north side of Hidden Bay Dr., approximately 256 ft. east of Leisure Dr. in

the Refuge of Dirickson Creek Subdivision. 911 Address: 37309 Hidden Bay Dr., Selbyville. Zoning District: MR-RPC. Tax Parcel: 533-12.00-614.00

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicants seek a variance of 2.7 feet from the required ten (10) feet side yard setback on the west side for the existing attached shed.

William and Suzanne Middleton were sworn in to give testimony.

Mr. Middleton testified that the homeowners association requires that sheds be attached to the dwelling and use the same materials as the dwelling; that the homeowners association supports the Application; that, prior to building the shed, they got approval from the HOA and hired a builder; that they relied on the builder from Wilkes-Barre, PA; that the inspector discovered the encroachment; that the builder obtained the building permit; and that the shed is 19.8 feet from the neighbor's home.

Mrs. Middleton testified that they worked with a builder to add the shed; that the Property is unique due to the placement of the home and the home on the neighbor's property; that the house faces Hidden Bay Drive at a straight angle but the neighboring house faces Hidden Bay Drive at an angle; that it could not otherwise be developed due to the easement as it is on the same side of the house as the outdoor shower and that was the directive from the HOA; that the shed is adjacent to an outdoor shower; that the neighbor has an HVAC system and crawl space entrance on that side of the home; that homeowners association requires that sheds be placed on the side of the Property where the garage is located; that the neighbors support the Application; that shed is for a riding lawn mower and is the minimum size for a riding lawn mower; that the shed is attractive and matches the house; that the shed will not alter the look of the neighborhood; that the shed is similar in size to other sheds in the neighborhood; that Brown Family Builders constructed the shed; and that there is no interior access to the home from the shed.

The Board found that no parties appeared in support of or in opposition to the Application.

Ms. Magee moved to approve Variance Application No. 12199 for the requested 2.7 feet variance from the required ten (10) feet setback as the Applicants have met the standards for granting a variance.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously that the **variance be granted**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12201 – John W. Davidson, Trustee seeks a special use exception to place a telecommunications tower (Section 115-194.2 of the Sussex County Zoning Code). The properties are located on the southwest side of Harbeson Rd., approximately 436 ft. and 670 ft. north of Hollyville Rd. 911 Address: 22602 Harbeson Rd., Harbeson. Zoning District: C-1, Tax Parcels: 234-10.00-70.06 and 234-10.00-70.07.

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received one letter in support of and none in opposition to the Application and one mail return. The Applicant seeks a special use exception to place a telecommunications tower on the property.

Andrew Petersohn and John Davidson were sworn in to testify about the Application. John Tracey, Esquire, was present on behalf of the Applicant, presented the Application.

Mr. Tracey stated that this application is different from others he has presented because the request for a 150 feet tall telecommunications monopole on a commercially zoned property; that the Property is located on the corner of Hollyville Road and Harbeson Road; that the tower will measure 151 feet tall; that there are no variances requested as the tower will comply with all aspects of the zoning code; that the tower will meet all lighting and setback requirements; that the nearest tower is 1.96 miles away and will not satisfy the Applicant's gap in coverage; that the tower will meet all FCC regulations pertaining to radio frequency and, at its maximum output, would only be 1.8% of the maximum allowable limit; that the tower will address a gap in coverage along Route 5; that the tower will produce no noise or smells; that the traffic related to the tower will be 1 visit per month for maintenance; that the tower will not substantially affect adversely the uses of neighboring and adjacent properties; that the tower will not tax public resources; and that Mr. Petersohn has submitted the following reports as is required for the Application: addressing the site inventory; the emissions report, and the design report.

Mr. Davidson affirmed the statements made by Mr. Tracey as true and correct.

Mr. Tracey stated that the Property is used for a masonry & house moving business; and that the tower will be located on the south corner of the Property outside the area used for that business.

Mr. Petersohn testified that the tower will improve service in the area for Verizon subscribers and that the tower will be available for collocation; that Verizon suffers from capacity issues in the area; and that overly redundant coverage is also problematic.

Mr. Tracey stated that there are more devices being used which need these towers; and that the American Cancer Society has found no cancer related to these facilities.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously to approve the

special use exception to allow the placement of a 151 feet tall telecommunications monopole as it meets the standards of §115-194.2 regarding telecommunications towers and it will not substantially affect adversely the uses of adjacent and neighboring and properties. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12202 – James F. Wicks, Jr. & Heather Wicks seeks variances from the front yard setback for an existing structure (Section 115-25 of the Sussex County Zoning Code). The property is located on the north side of Clay Rd., approximately 24 ft. east of Marsh Rd. 911 Address: 33857 Clay Rd., Lewes. Zoning District: AR-1. Tax Parcel: 335-12.06-57.00

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and zero mail returns. The Applicants seek a variance of 7.5 ft. from the required forty (40) feet front yard setback for an existing porch and a variance of 9.5 feet from the forty (40) feet front yard setback requirement for existing steps.

James and Heather Wicks were sworn in to give testimony. Mrs. Wicks submitted letters of support from two neighbors, pictures of the property before the porch was added, and pictures of the property with the porch.

Mrs. Wicks testified that they renovated the dwelling, which is over 100 years old; that, as part of the renovation, a wrap-around porch was installed; that the house was neglected; that the porch was built in 2016 and the Property was sold earlier this year; that the encroachment was discovered as part of the settlement process; that monies were held in escrow pending the outcome of this application; that the property is unique because the house is placed so close to the front setbacks; that the property cannot be otherwise developed as there is no other place to put a front porch; that this was not caused by the Applicants because they expected the builder, Ammerman Construction, to build the porch and steps in compliance with the Sussex County Zoning Code and to follow all setback requirements; that it will not alter the essential character of the neighborhood; that the porch and steps enhance the aesthetics of the home; that this is the minimum variance requirement to make the porch usable; that the porch is only 7.5 feet wide and is small; and that the porch is no closer to the road than other homes in the neighborhood.

Mr. Wicks testified that there is approximately 15 feet from the front property line to the edge of paving of Clay Road.

The Board found that two people appeared in support of and no one appeared in opposition to the Application.

Mr. Mears moved to approve Variance Application No. 12202 for the requested variances for the following reasons:

1. The uniqueness of the property is the way the house is located towards the front of the lot;
2. The Property cannot be otherwise developed without placing the porch on the front of the home;
3. This situation was not created by the Applicants but by the builder;
4. The variance will not affect the essential character of the neighborhood as it is a charming renovation;
5. The requested variances are the minimum variances necessary to afford relief.

Motion by Mr. Mears, seconded by Ms. Magee, and carried unanimously that the **variances be granted for the reasons stated**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12203 – Rhondalin Cannon-Tingle seeks a special use exception to operate a day care center (Sections 115-40 & 115-210 of the Sussex County Zoning Code). The property is located on the south side of Garden Ln., approximately 1,226 ft. west of Bridgeville Hwy. 911 Address: 8674 Garden Ln., Seaford. Zoning District: GR. Tax Parcel: 331-3.00-263.00

Mr. Whitehouse presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and two mail returns.

Rhondalin Cannon-Tingle was sworn in to testify about the Application.

Ms. Cannon-Tingle testified that she currently operates a small daycare with nine children; that she seeks a special use exception to operate a larger daycare with twelve children; that there have been no complaints from neighbors; that she has operated this daycare center for seventeen years; that neighbors support the Application; that the playground is fenced in; that she holds outdoor recess hours from 10:30-11:30; that she serves children ages 2-5; that the facility operates from 7:00 am to 7:00 pm; that there is adequate parking; that it will not substantially affect adversely the use of the neighboring and adjacent properties; and that she lives on the Property.

The Board found that one person appeared in support of and no one appeared in opposition to the Application.

Mr. Mears moved to approve Special Use Exception Application No. 12203 as the use will not substantially affect adversely the use of the neighboring and adjacent properties.

Motion by Mr. Mears, seconded by Mr. Callaway, and carried unanimously to allow the

special use exception for the home daycare serving 12 children. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Ms. Magee – yea, Mr. Mears – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Case No. 12204– Linda R. Stetyick seeks a special use exception for a garage / studio apartment (Sections 115-23 & 115-210 of the Sussex County Zoning Code). The property is located on the southeast side of Cordrey Rd., approximately 432 ft. south of Mount Joy Rd. 911 Address: 30580 Cordrey Rd., Millsboro. Zoning District: AR-1. Tax Parcel: 234-29.00-321.00

Ms. Cornwell presented the case and stated that the Office of Planning and Zoning received no correspondence in support of or in opposition to the Application and one mail return. The Applicant seeks a special use exception for a garage / studio apartment.

Linda Stetyick was sworn in to give testimony. Ms. Stetyick submitted pictures of the property and a letter of support from a neighbor. Ms. Stetyick testified that she purchased the Property in 1995 with her husband; that a permit was issued in 1996 to place a manufactured home on the property and join it to the existing cottage; that the home has been used in this fashion since 1996; that she sought a home equity line of credit and the bank sent someone to look at the house who discovered that the home had two kitchens; that the cottage had a kitchen / bedroom combination and is small; that the cottage was used for a sick family member initially; that the cottage has been used for family members visiting the Property; that the cottage had a lot of termite damage; that her neighbors support the Application; that she obtained a permit for the manufactured home; that her husband was retired at the time and he made arrangements for the manufactured home but he passed away; that there is a family room which connects the cottage to the manufactured home; that the sick family member passed away; and that she did not previously seek a special use exception.

Mr. Mills stated that this is not really a garage / studio apartment.

Ms. Cornwell stated that the second kitchen would need to be removed.

Ms. Stetyick testified that the cottage only measures 20 feet by 30 feet; that her daughter and son-in-law live in the cottage while saving money for a home; that there is a kitchen in the manufactured home and in the cottage; that the cottage has not been rented; and that the bank's representative did a walk-through and discovered the two kitchens.

Ms. Cornwell stated that the Office of Planning & Zoning received a complaint, inspected the premises, and discovered the violation; and that there have been no complaints filed with the Office previously regarding this use.

Ms. Stetyick testified that the use will not substantially affect adversely the uses of the neighboring and adjacent properties.

Mr. Sharp stated that he has a legal concern with the Application and he recited the definition of a garage / studio apartment. Mr. Sharp stated that a garage / studio apartment does not include duplexes; that there have been changes to the Sussex County Zoning Code; and that the definition of accessory building was changed in 2010.

Ms. Stetyick testified that the two structures are attached by a breezeway; and that the cottage is not a separate structure.

Ms. Cornwell stated that, if the Applicant removes the kitchen, there is no violation.

Ms. Stetyick testified that the addition cost \$50,000.00; and that she would remove the kitchen when her daughter moves out.

Mr. Whitehouse stated that the definition of accessory use does not require that the use be detached from the building.

Ms. Stetyick testified that the cottage is treated as a separate living space and is accessory to her main living space.

Mr. Sharp stated that he has concerns because a garage / studio apartment clearly states that a duplex is not a garage / studio apartment.

The Board found that one (1) party appeared in support of and no one appeared in opposition to the Application.

Ms. Cornwell suggested that the Board leave the record open to allow staff to investigate the matter further.

Ms. Magee moved to leave the hearing for Case No. 12204 open for the limited purpose of allowing staff to look at the history of the building permits and the property.

Motion by Ms. Magee, seconded by Mr. Callaway, and carried unanimously to **allow the record to remain open for this limited purpose**. Motion carried 5 – 0.

A member of the public indicated that he wished to speak on the Application.

Mr. Mears moved to **reopen the hearing to allow member of the public to speak**, seconded by Mr. Callaway, and carried unanimously. Motion carried 5 – 0.

Toby Schlick was sworn in to give testimony. Mr. Schlick testified that Mrs. Stetyick is a good neighbor and she has made improvements to the property; and that this special use exception

would not substantially affect adversely the use of the neighboring and adjacent properties.

Mr. Workman moved to leave the hearing for Case No. 12204 open for the limited purpose of allowing staff to look at the history of the building permits, the property and the code provisions at that time.

Motion by Mr. Workman, seconded by Mr. Mears, and carried **unanimously to allow the record to remain open for the stated limited purpose**. Motion carried 5 – 0.

Meeting was adjourned at 9:20 pm